

**SPECIAL COMMITTEE ON RIVERFRONT ACTIVITIES
AND BASEBALL**

January 10, 2005

5:15 PM

Chairman Lopez called the meeting to order.

The Clerk called the roll.

Present: Aldermen Lopez, Gatsas, Guinta (arrived late), DeVries, Smith

Messrs.: Kevin Clougherty, Tom Clark, Frank Thomas, Steve Tellier, Joan Porter, Bill Jabjiniak, Shawn Smith, David Roedel, Atty. Peter Rotch

Chairman Lopez addressed items 3 and 4 of the agenda:

3. Stadium financial status report.
4. Stadium construction status report.

Alderman Smith moved for discussion. Alderman Gatsas duly seconded the motion.

Alderman Gatsas asked do we have any legal fees on Gill Stadium?

Mr. Kevin Clougherty, Finance Officer, replied we have to go out and pull out each of the invoices and compile it. What we've done here is provide you with a statement of what the bills were, what the check number was, the date paid, what the total amount was \$584,654.46 of which \$319,514.38 has been paid through the bond which is that number you see on Frank's update that you get every period plus \$156,472.66 that's been paid through the General Fund which is the way we've always done it through Tom's office and my office.

Alderman Gatsas asked can you explain to me "by the way we've always done it."

Mr. Clougherty replied what happens, Alderman, is when you finance these projects you put into the bond an amount for the original work and for the cost of issuance, but then as projects evolve and as they move along it's not uncommon for them to have issues that were not included in those original budgets and that is

why we have...Tom has an incidentals account in his budget and I have one in mine so that we can deal with those issues as we're moving forward. If you take a look at this number of \$548,000 it's comparable to what we spent on the Airport when we did that issue, not all of the legal issues for the Airport were covered out of the original bond issue. You've got some of the same approach with Verizon and not all of it was paid out of the bond issue and if you were to look at the schools project it's a similar approach. Whenever you get into these big projects you have to understand there's some changes as things go forward and they're not legitimate expenses necessarily of the project or the bond but they're expenses that are related to the administration and have to be covered through the General Fund. But, that's the way they've always been handled and that's why those accounts are in our budget.

Alderman Gatsas stated the last invoice that you had #351438 I noticed it doesn't have an asterisk.

Mr. Clougherty replied we haven't paid that yet.

Alderman Gatsas asked was that part of the \$156,000 or not?

Mr. Clougherty replied that is part of the \$156,000.

Alderman Gatsas asked should it then have a single asterisk or a double asterisk?

Mr. Clougherty replied it has no asterisk because it hasn't been paid yet. But, it will be General Fund.

Alderman Gatsas stated when you say land sale can you identify what you mean by land sale. Are you talking about the sale to the developers from the Riverfront?

Mr. Clougherty replied a lot of the costs on this, Alderman, were as you recall initially you have the cost of arranging for the debt, all the things that are normally associated with a bond issue but then on this project too you also have the legal expenses of putting together the Master Lease and all of those things that were agreed on with the developers in their original proposal. Once you get onto the land sale moving down those are all items that were incurred as a result of having to separate the Master Lease into three different pieces primarily.

Chairman Lopez asked do we fund that money in the General Fund in your department or Tom's department when this whole project...was there a separate line item for this money?

Mr. Clougherty replied you really can't anticipate this, Alderman, so what happens each year is that there is an amount put in my budget and there's some put in Tom's so that if you run into issues where the Board or a particular project needs to have some legal work done or needs to have some consultant work (actuarial) there's dollars there that can be used for those particular purposes and that's what they're used for. In a given year it might be the Airport where we had used some of those dollars up front to pay for some of those costs. It may have been with respect to Water, if you had a project that was going on for their treatment plant. Those types of things can pop up and that's why you have those dollars in our budget.

Alderman Gatsas asked how do you say that none of this is pertinent to the transaction and it should be paid by General Fund dollars?

Mr. Clougherty replied I'm not saying it's not pertinent to the transaction I'm saying it wasn't included in the original estimates, Alderman, of what the cost...who could foresee the effort that would go into, in this case, the negotiations for the sale of the land and in fact changing the Master Lease from one single arrangement to three separate ones. Those things are unanticipated, that is why those dollars are not included in the project because you're trying to keep that at a reasonable amount.

Alderman Gatsas asked why wasn't it explained to us then that we were going to incur legal costs if we were going to do three separate transactions when under any circumstances this Board should have been made aware of that so that we could have told the developers that if they wanted three separate transactions they needed to pay the legal fees.

Mr. Clougherty replied we did apprise the Board of that that there would be costs associated with that, Alderman.

Alderman Gatsas asked you apprised this Committee or the full Board?

Mr. Clougherty replied I think we did.

Chairman Lopez asked this money is paid to whom?

Mr. Clougherty replied in this case it probably would have been paid, most of it, to Ropes & Gray for the services of Walter to do the real estate work that he was doing for you.

Chairman Lopez stated there's no particular formula...Tom, would you want to comment on this, I think we're just looking at this asking how did we get to \$156,000 paid out of the General Fund. I understand the Finance Officer, is this common through all the projects we have in the City?

City Solicitor Clark replied to my knowledge the process followed in this project is similar to the process followed in any other large development or construction project involving bond issue. If I recall correctly it was done this way when The First Museum was done, it was done this way when the City acquired Hackett Hill, it was done this way for the School/Design Project and it was also done this way for the Civic Center.

Alderman Smith asked are we combining three and four because I want to speak to item 4 on a different topic.

Chairman Lopez replied you can see that we're talking about the whole thing.

Alderman Smith stated in the letter from Bob Brooks to Frank Thomas there's quite a few issues that I'm very concerned about. One is the shared cost to the Public Service power line relocation. I guess they haven't been paid 6 to 4 to 3, that is a problem. I notice that they are trying to get 15-minute parking meters and what is going to be the situation of future construction for the hotel and that...will disturb the baseball stadium and I don't know about these factors. I guess Bob Brooks is not here tonight, but I'd like to find out what the City is going to do because they're actually bringing it to the City's attention in this letter.

Mr. Frank Thomas, Public Works Director, stated that was in the e-mail that Brooks sent me notifying us that he wouldn't be attending tonight. These issues are on-going and will be having on-going discussions with the team. For example, the issue regarding the parking meters, I think we have reached some type of partial resolution to that. We did meet with the developers of the retail site, I did have conversations with the team (Shawn Smith), I think that we were pretty much down to where we'll probably be looking at recommending to the Traffic Committee that they be 2-hour parking and that some of the proposed handicapped spaces be reduced with the provisions that the team can post or bag meters for additional handicapped parking during an event. What's still up in the air on this one issue is whether they should be meters or just posting 2-hour parking. The issue of the shared cost is an issue that the team is going to have to have continued discussions with the Roedel's and the other parties involved (Downtown Visions). There were agreements made for their sharing the costs for the roadway, sharing of costs for PSNH relocations and quite frankly that is something they are going to have to do. We really don't have any power to force the payment of these agreed

upon sharing costs and then the third issue which is the construction activities. Obviously, there's a concern to the team and it's also a concern to us that potentially there is going to be on-going construction activities once opening season takes place potentially with the retail development of that parcel. Obviously, we're going to want to coordinate those construction activities to minimize impacts on sporting events down there and same with the hotel site. So, again, I think these are valid points. Some of them we can work with the team and the other developers in the area and some we can only suggest that they try to reach settlement on the shared costs.

Alderman Smith stated, Frank, I was under the assumption looking back at my notes that that was...we're talking about shared costs...I was under the assumption and reading what the document said that this was going to be shared by the individual developers as they brought the line in. Now, I don't know maybe you can correct me on that but I'm almost positive I read that in agreements with the parties involved.

Mr. Thomas replied there are costs being picked up with Public Service but some of the work that was done in the roadway area with the Public Service lines, I believe, that there's a cost being shared there, there's costs being shared with the construction of the roadway. But, once you get beyond the site of construction of Payton Construction and the team's area then once that gets into Chinburg's property then he'd be picking up those costs.

Chairman Lopez stated let's go back to the Riverfront Development legal expenses, right now. You have another question, Alderman Gatsas.

Alderman Gatsas stated I have a real problem. I thought I followed this project pretty closely that there was never any statements about the taxpayers of this City covering any of this expense. Now, I've been asking for three months and I appreciate you getting this to me but I would assume that some of the expenditures that happened in '03 that have asterisks after them would have been expenses that we would have known about or would have been given to us during this timeframe that I understand that maybe the last two months you would have had a tough time picking up, Kevin, but I think the ones that were made should be pretty easy in the computer system that we have to go in and print something and say here are the expenses that were incurred by the General Fund, so that we could have gotten some answers of why it was happening. I don't think anywhere in this during this whole project that anybody assumed that there were General Fund dollars expended. Can you tell me in the \$105 million School Project, did we expend General Fund dollars to do that deal?

Mr. Clougherty replied my recollection is that that's the case, Alderman. I can go back and pull that number out for you.

Alderman Gatsas asked is that something that you're billing onto the School District or the General Fund of the City picked up the whole burden of it?

Mr. Clougherty replied in that case depending on what it's for. If it's something that was done on our side that relates to the bond issue we'd be covering it, but I'll break it down for you just as I did this, provide you a summary.

Alderman Gatsas stated I just look at some of these numbers and I find that...and I certainly would like to see the minutes of whatever meeting that we as a Committee were told that we were going to incur legal expense because all we were told was we were separating the three deeds so that the legal expense wouldn't incur to the developer that then had to separate them and pay the transfer of title twice. So, I certainly, as one member would like to see when we were told that we were going to incur legal expenses to divide that property in three's and bill out separate deeds because I certainly would have thought that if we were making an accommodation other than...I think I have it if you give me a second...the cost was a double amount on the transfer of title stamps and that's what we were looking to avoid and help them out.

Mr. Clougherty stated I'd be glad to go back and look at that, Alderman. My recollection is that we did talk to the Committee and members and said that it was going to be more expensive.

Alderman DeVries stated when we look at the legal expenses for the land sale that really doesn't pertain specifically to the construction of the baseball, in fact, that land has not been sold. Is that part of the reason that it cannot or is not attributed to the bonding of the stadium?

Mr. Clougherty stated right, Alderman. What we try to do is take a look at what's attributable to the original budget and what costs have been incurred beyond that and some of these items are expenses because the City decided to go a certain path that we incurred expenses. So, I'll go back and give you an explanation on each line if you'd like but those are the actual costs.

Alderman DeVries stated I'm not asking for the complete explanation on each line, Alderman Gatsas might be but I'm not. I guess what I'm wondering is maybe what Alderman Gatsas was professing himself that if it is not attributable to

the construction of the stadium and thus wouldn't come off of the bonding if it doesn't come out of the General Fund how would it be paid. Is it something billable to Manchester Downtown Visions or 6 to 4 to 3?

Mr. Clougherty replied these are costs incurred by the City to do that project and are funded through the operating budget in my line items and in Tom's.

Chairman Lopez stated I think also that we need to remember in many of these projects and they can speak for themselves. On any of the projects the full Board has approved there are legal costs in order to get things done and I'm sure that there's negotiations between all parties concerned as to what the City's obligated for and what other people are obligated for and Walter McCabe being our Bond Counsel I'm sure we have to pay out of both parties whatever the case may be is what I'm understanding from what the City Finance Officer and the City Solicitor are saying. Do we research something, was it said that it's not going to cost the City any money for this particular project. I think in the end it's not going to cost the City any money because of the revenue that's going to potentially come in in order to pay the bond, but in order to get to first base I think you have to do the administrative paperwork. I don't know exactly what you're looking for, Alderman, and maybe you want to restate what you're looking for.

Alderman Gatsas stated I guess...I look at a number of \$20,921 was issued on 10/21/2003 and it says "bond structuring". Now, if that's not part of the debt of the baseball facility how is that incurred by the taxpayers? We didn't do bonding for the City's benefit, we did bonding for the developer's benefit.

Mr. Clougherty stated I'll go back and take a look at what the details are of that bill, Alderman, and I'll tell you what was in there and what was under the category of "bond structuring".

Chairman Lopez stated you can get the information to all the Alderman.

Alderman Lopez stated I would like an itemized hour time billing on every one of these invoices and tell me what it pertains to because I certainly have...when it says land sale is this the original land sale that was transacted with Downtown Visions?

Mr. Clougherty replied the original proposal for the project, if you will recall, was a lease arrangement. This would have been as a result of the arbitration.

Alderman Gatsas stated no I'm talking about the land sale to Downtown Visions that happened.

Mr. Clougherty asked which item are you talking about, Alderman?

Alderman Gatsas replied on the baseball structure itself that wasn't a lease that was...they had to buy the land, didn't we have to reimburse them \$1.4 million?

Mr. Clougherty replied no. The original proposal was based on a lease arrangement. I'm still not sure what's you're asking, Alderman. You're talking about the acquisition by the developer or the land from Singer Park...

Alderman Gatsas stated that is correct.

Mr. Clougherty stated and is that included in here?

Alderman Gatsas stated that is correct.

Mr. Clougherty replied my understanding is that that is included as being paid out of the bond.

Chairman Lopez stated why don't we do this. Kevin, just have yourself of somebody do an analysis of each of these so that we understand it totally, okay, and get it to the Committee please. Thank you.

Alderman Gatsas asked can we have these before we come to the Committee meeting. Is that possible, so we can look at them?

Mr. Clougherty replied I'll try and have them to you, Alderman, we'll have to bundle them up again, it's a manual exercise to go back and pull all of these things together but yes we'll try and have it for the next meeting.

Chairman Lopez in reference to the stadium construction status report stated I think what I'd like to do here is get Shawn Smith...I asked him to come here and give us an update on baseball at the same time. So, why don't we get it out of the way before we get into anything further.

Alderman Smith stated you had a motion made and seconded on the financial status report and now we're going to the status report on the stadium construction.

Chairman Lopez stated there was no vote accepted, I was just asking for a report.

Mr. Shawn Smith, Fischer Cats General Manager, stated Bob Brooks from Parsons Brinkerhoff as you mentioned is out currently. So to be able to give you any accurate financial updated status on the construction that is more left to Parsons Brinkerhoff than it is to me. From an operational standpoint we begin moving into the ballpark on March 1st and those will be the areas of the commissary, the home clubhouse, the main concourse level which constitutes the restrooms and concessions and also the suite level. We have retained the services of a company called Centerplate which I believe Tom Clark the City Solicitor is aware of and making sure we follow our agreements with our lease with our concessionaire situation and they will be operating all of the food services for the facility including the suite level which is going to be a nice advanced task compared to what we did over at Gill Stadium. The moving in process that I mentioned that begins will take place with the concession equipment, our furniture, office furniture and so on. The last area of prioritization for us to be able to move into the park are administrative offices which for those of you who had seen what we worked with at Gill Stadium last year anything will certainly be an upgrade from having a folding chair in a shower that we had at Gill. If it takes us a little longer to get into the park we're fine with that but we won't sacrifice any of the fan amenities or any of the revenue generating sources and the fans will think it's great when we open on April 7th. Have you noticed the big banner on Gill Stadium, the 500 sf banner that yes does comply with the necessary highway beautification acts, we made sure we looked into it before we had the signs designed. We waited until the crucial period of the weather had passed just before we put that big target on our backs, so April 7, 2005 is when we open against the Minnesota Twins affiliate from New Britain and we are set to do so. Our ball club is taking shape and we'll probably have half the guys returning from last year. Suite sales have been going rather briskly, about half of our suites are sold thus far and we have plenty of proposals pending and I'd be remiss if I didn't take the opportunity for a cheap plug to say to show any interest from anyone around the community we'd certainly be willing to take their phone calls. Our season ticket renewal process is holding strong from last year. Tickets will go on sale to the general public over the internet on January 31st as well as the people that bought their "Cat" packs, the flexible ticket packs. Those folks can redeem the tickets in advance before they go on sale February 14th, which also falls on the All Star weekend here for the AHL with the Verizon Wireless Arena. We have employed many more individuals to work for our organization than before because it's a much larger situation for us. We just retained the services of a Director of Stadium Operations, a Head Groundskeeper who works for the Los Angeles Dodgers will now work here and an Assistant Head Groundskeeper...we'll have a full-time maintenance staff of four people. We have a sales staff that's grown, a ticket staff that's grown and we need to make sure we do the best we can to grow our front office with the necessary good growing pains that we'll have for the

operation. So, we're very pleased with where we are and we just need to get this snow out of here and the snow has not delayed construction. All the seats are scheduled to arrive any day now on site and then you'll see the preparations go in for the seat installation which once they're done outlining where the seats go and the holes that are drilled to have the seats connected to the facility...before you know it you'll have the facility full of seats. And, for those of you that have not been down there on the site I encourage you in the very near future to get down there because things are literally changing by the day. On any one given day you can see upwards of 150 people down there just as busy as you can possibly imagine. I was down there again today for another meeting with our cleaning company and the place just looks fantastic.

Chairman Lopez asked are there any questions of Shawn Smith. Shawn, thank you very much for taking the time to come over here and explaining all of that and I'm sure the public appreciates your comments here today.

Mr. Smith stated thank you and again thank you for the Board's support, Mr. Chairman.

Alderman DeVries stated I wanted to ask a couple of questions following up on Alderman Smith's questions earlier. In reference to the potential for or the request for additional handicapped parking spaces. Has anybody taken a look at the property under discussion at Lands and Buildings, I believe it's number 14 on their agenda for tonight, that would be the closing of South Bedford Street, the potential additional space to see if it would be of use to any of the abutters...owning indoor leasing property as opposed to the abutter who has contacted the City to purchase that property?

Mr. Thomas replied that would be the section of South Bedford Street right at the intersection of Commercial Street. Because of the need to provide a driveway entrance from the new roadway into the existing site that takes up a portion of the available space or the available remainder of the South Bedford Street right-of-way. I think our office did look into how many additional parking spaces could be provided in that area and we're only looking at potentially another three maybe four. So, there isn't a tremendous amount of additional parking that would be provided. And, quite frankly, it does make sense that the City turn over that property or sell that property to the property owner because it does fit better with that parcel than to try to carve out three additional spots for the public at that location.

Chairman Lopez addressed item 5 of the agenda:

5. Updates regarding private development.

Chairman Lopez stated before we move on, I've had some questions from Aldermen and would ask Steve Tellier to come up to the microphone and give us an update on the tax situation of the property down there.

Mr. Steven Tellier, Chairman of the Board of Assessors, stated the question was asked whether they were given a tax bill for 2004. The answer is yes. The assessment was \$1.6 million. Taxes assessed on that property was approximately \$44,669.21 and they were also in the Central Business District with an assessment of a fee of \$1,023.94. I checked in with the Tax Collector's Department and those taxes and fees have not yet been paid.

Chairman Lopez asked, Joan, for the record could you come up please and tell us the procedure when people don't pay their taxes.

Ms. Joan Porter, Tax Collector, stated the procedure would be the same for them as for anyone else. We'll be sending delinquent statements out in the month of January to anyone who has not paid their '04 property tax and then in March if they are still unpaid balances we will send them notice of impending liens and in April we will lien the property and then the lien can stay on the property for two years before we deed a property.

Chairman Lopez stated the bill went to...

Ms. Porter replied Downtown Visions...this was as the property existed on April 1st, so it's not subdivided bills.

Mr. Tellier stated I might add that they were billed the previous year, which they did pay the bill, I don't have the timing on it. We are not led to believe that they're not going to pay the bill.

Chairman Lopez stated no it's just to get in on the record so it doesn't become a question later. Thank you very much. Mr. Roedel do you want to bring us up-to-date, please on the hotel.

Mr. David Roedel, Hotel Developer, stated well the good news is we pulled the building permit I think it was last week. We've been on site, we started mobilizing the site the end of November and started getting into the actual site work early December. We ran into a sort of historical situation...we ran into the old railroad round house building and the foundation of it and so that appeared in the ground October-November...when we get on site the first thing they've got to

do is demo that because it's inside the building foot print and that's been taking us some time and for a lack of a better word it's a big spoke of a wheel and a big giant cement spoke where they used to bring the railroad engines in and work underneath them, so that was on our site and we've been taking that away, crushing it up, taking it away by truck, it's taken some time but our foundation system, our vibra piers system recently started last week, we've got 550 vibra piers to sink into the ground which is crushed gravel and will take about 4 to 6 weeks...we'll be able to work through the winter on the vibra piers that will get us into footings foundations mid to late February, we'll be able to pour a basement, hopefully, our first floor, our first floor walls before spring and then really get into the tower building the actual six stories of the tower structure as soon as the weather breaks in April. Right now, we're looking at about a 12-month construction timeline. We should be ready to open in and around Christmas of next year but of course that could be the worst possible day to ever open a hotel and we'll have to make a business decision, we'll probably end up opening it after the first of the year next year when business picks up a little bit. But, I would say we're finally on track, we've got a permit and we're looking forward to getting this thing open.

Chairman Lopez stated I want to thank you very much, Mr. Roedel.

Chairman Lopez called upon the Chinburg representative relative to the condominiums.

Mr. William Jabjiniak, Downtown Manchester Coordinator, stated Mr. Chinburg is not going to be here tonight. Atty. Rotch is here to speak about the easement. He did leave a voice mail that he has closed on the property, he is starting utility work, Severino is ready to go and he plans to actually start townhouse construction in the March-April time.

Chairman Lopez stated you're following that up pretty good there. Any questions?

Alderman Gatsas stated we received the check then.

Mr. Jabjiniak replied yes we have.

Alderman Gatsas stated the late penalties too.

Mr. Jabjiniak replied yes.

Chairman Lopez stated we've got money in the bank.

Alderman Gatsas asked in escrow or in the bank?

Mr. Clougherty replied in the bank. The escrow, I think, is Drew Weber's deposit.

Chairman Lopez stated, Kevin, why don't you bring it up here, so that it's in the record, put some numbers here so we'll have it.

Mr. Clougherty stated we had provided Eric (Chinburg) with a statement of how much was due, based on our calculations (\$828,000.00) that included his payment plus interest and he's paid that amount and in his letter he's asking for the right to eventually come back and discuss that but he's made the payment and moving forward.

Alderman Smith asked are we going to follow this agenda or what? We seem to be going all over the place.

Chairman Lopez replied well because we started that way and we're down to the meat here, so right on.

Alderman Smith stated I would appreciate it, Mr. Chairman, if we could probably start on 5(a) and then 5(b).

Chairman Lopez stated we on 5 right now and we'll get to the easement here in a minute, but the question that came up by an Alderman we addressed it. Are there any questions in reference to the payment. Okay, so be it.

Chairman Lopez addressed item 5(a) of the agenda:

- (a) Communication from Atty. Peter Rotch seeking the City's consent of a Temporary Access Easement Agreement given by Tyson Prepared Foods, Inc. to Manchester Parkside Place, LLL to allow construction vehicles working on the Riverfront Development access across the former Jac Pac property.

Alderman Smith moved for discussion. Alderman DeVries duly seconded the motion.

Alderman DeVries stated within this document if I read it correctly the City is protected in their ability if they should have the need to relocate, change this...they also have an ability to terminate this contract.

City Solicitor Clark replied that is correct.

Alderman DeVries asked the timeframe is it 60 days the same as Tyson.

City Solicitor Clark replied yes. The original easement is with Tyson, the easement will be transferred with the transfer of the property, the City would have the same rights.

Alderman DeVries stated if the City should determine as we go forward developing the Tyson property that we need to relocate this easement being that it's reasonable and satisfactory to all parties the City would be absorbing the expense on that if it's the City desiring to relocate...that would be 6 (a) page 2, the Right to Relocate Easement...so Tyson has the subject and that would defer to the City when we purchase the property. So, it would be at the City's expense should we need to relocate this particular easement as we move forward with our...

City Solicitor Clark stated that is how it reads, however, if the City didn't want to relocate at its expense it could terminate it.

Alderman DeVries stated with 60 days notice.

City Solicitor Clark replied correct.

Alderman Gatsas asked, Attorney Rotch, was there a payment for the easement, monetary.

Attorney Peter Rotch replied no, Sir. By way of explanation this is a temporary construction easement to enable construction equipment for both the Chinburg development, the KeySpan people who are doing environmental remediation up there, the baseball people to get to that side of the stadium before the road is built and there was no Tyson...Tyson was very cooperative and helpful with this so there is no payment whatsoever.

Alderman Gatsas stated don't you think that the other entities should be listed in this temporary access easement?

Attorney Rotch replied at this point they can be or Chinburg can...we are trying to get it from our property which is the Chinburg property is kind of the piece between the City property and the JacPac...at this point we didn't list it and can certainly get an easement from Chinburg to Manchester Parkside to the other entities or license to use it for limited access, that it what I would recommend that we give them a license, not a problem. We were carrying the burden here to get this access across the Tyson property.

Alderman Gatsas stated I would assume that somebody else would be looking for indemnification...Tyson would be looking for indemnification from KeySpan.

Attorney Rotch stated any license given to KeySpan or the others would be with the appropriate indemnification and insurance provisions that we've put in.

Chairman Lopez asked, Tom, does this have to go to the full Board?

City Solicitor Clark replied no it does not. The City doesn't have any rights in Tyson property at this point in time. Tyson just asked if the City agreed to allow them since there is a P & S on the property. This Committee can authorize that.

Alderman Smith stated I think we have every intention of buying the property and I think this is the situation and we're just going to allow these vehicles to come in to make sure the development proceeds safely, it's under contract to be purchased by the City and I think this is the whole thing...for a period of two years, am I correct, Sir.

Attorney Rotch stated well, that's right on this. There was a time to pick to make sure that the construction period was done. There is...do you want to finish this and I'll talk about the next easement.

Chairman Lopez stated why don't you talk about both and then we'll just act on this in case questions cross each other.

Attorney Rotch stated there is an issue as part of the development for the townhouses and the residential development. There is a need by the Planning Board for an emergency access, emergency vehicles only crossing to the entire section from the south across Tyson property. We started actually negotiating that easement and then the City entered into an agreement to purchase the property, Tyson appropriately said we're not going to give a permanent easement to a property that the City is going to own. That will be coming up...the City is going to close soon, I've been advised, and we need to work out the terms of a permanent emergency access easement that would allow Fire trucks, Police, ambulance the ability to go from the south to access the residential property. It would also, to the benefit of the City property, allow emergency vehicles coming from the north to enter into the Tyson property from the north across the Chinburg property; that hasn't been done but that's something that going to come up and I assume that this Committee will be asked to at least support it because it's crucial to the development of the Riverfront property.

Chairman Lopez stated I think that emergency access road was to lower the cost to Chinburg.

Attorney Rotch stated yes. Chinburg will be building that and those figures were in actually when they were doing the arbitration. There's an estimate by the engineer's of about \$89,000 to build the road. There are utility lines that have to be constructed within that road at additional costs so there were substantial costs that Chinburg will be bearing as part of the development costs for the residential development.

Alderman Smith moved to consent to a temporary access easement agreement given by Tyson Prepared Foods, Inc. to Manchester Parkside Place, LLC to allow construction vehicles working on the Riverfront Development access across the former JacPac property. Alderman DeVries duly seconded the motion. There being none opposed, the motion carried.

Chairman Lopez addressed item 5(b) of the agenda:

- (b) Communication from Kevin Clougherty submitting a copy of a communication from Eric Chinburg advising of his assurance that he shall obtain financing and pay the City's first installment by January 5, 2005.

Chairman Lopez stated financials were addressed previously. Are there any other questions from Committee members.

Alderman Gatsas moved that the \$72,640.60 of legal fees pending not be paid until the full Board takes a position on it.

Chairman Lopez stated let me ask the City Solicitor since the full Board has authorized to move forward here where does that put us, Attorney Clark.

City Solicitor Clark replied Mr. Clougherty advises me that that bill would be paid within the next 30 to 60 days, so the full Board will be meeting before then, I don't think there's a problem if Alderman Gatsas wanted to discuss it at the full Board level.

Alderman DeVries stated I would ask my esteem colleague why he is sending this to the full Board for discussion as opposed to other...either in discussion here or...what will he accomplish at the full Board level.

Alderman Gatsas replied, Alderman, I'm just looking for an answer. Maybe you were aware of it but I was unaware that there was an additional \$156,000 that was going to be paid out of General Fund balance.

Alderman DeVries stated I understand that you had that question and we certainly had the discussion on that previously, I just don't understand why we would send something that would normally be handled at this Committee to the full Board.

Alderman Gatsas stated I agree with you except there are an additional \$80,000 + that this Committee was never made aware of and that payments were being made. There's nothing on any documentation that we've gotten for over a year and a half that shows the additional \$80,000 was ever paid.

Chairman Lopez asked, Attorney Clark, what can the full Board do if this money is owed and it's an agreement to move forward by the full Board, what would your recommendation be here?

City Solicitor Clark replied the Board can discuss it, these are bills for services rendered to the City of Manchester.

Chairman Lopez stated that's my point. Somebody's going to have to pay it.

City Solicitor Clark stated they have to be paid.

Alderman Smith stated these are for legal expenses, I don't know of any agreements we had with Ropes & Gray...I don't know who was responsible for the legal expenses...Kevin, if you can tell me...associated with the project, with Gill Stadium and Riverfront.

Mr. Clougherty stated as I said, Alderman, there are accounts in Tom's budget and my budget to accommodate these types of occasions where additional costs beyond what was anticipated in the project; that is what they're used for routinely. So, those would be paid out of those line items. As Tom said they're legitimate submissions and we pay them.

Alderman Smith stated what I'm getting at is if they have a legal expense I don't believe we had in our Memorandum of Understanding legal fees would be paid by certain parties. Okay, thank you, you answered my questions.

Chairman Lopez stated we can discuss it at the full Board but I think the outcome is going to be the same unless you want to correct me that it's a legal obligation and we have to pay the bill.

City Solicitor Clark reiterated as I understand it these are services that were rendered to the City of Manchester as part of the project and the bill should be paid, yes.

Alderman Guinta asked what's the approval process for legal bills? Who sees them and who approves them?

City Solicitor Clark asked on a general basis or this specific project?

Alderman Guinta replied for this specific project.

City Solicitor Clark replied Ropes & Gray is under retainer to the City of Manchester, they have a contract with the Finance Department, the bills are rendered to the Finance Department for project work that has been done. As I understand it the portions paid out of the bond were in preparation of preparing the bond documents and issuance of the bonds. In addition there are other ancillary legal matters that have to be handled and are generally handled by the same firm as has been done in any other major project in the City in order to assure that the City of Manchester is properly protected and those bills are also submitted to the Finance Department. Generally, I do receive a copy, I can't say I've gotten every one of them but generally I receive a copy.

Alderman Guinta stated you're not part of the full approval process, you don't okay these bills, you don't have an attorney looking at this to okay it. It goes directly to the Finance Office and the Finance Officer okays it.

City Solicitor Clark replied I generally receive a copy. I don't necessarily sign off on it, no.

Mr. Clougherty stated a lot of the work that is involved here involves conference calls and discussions of matters and review of documents that go through our office and go through the Solicitor's Office, so although Tom may not be looking at the individual submission of every bill he is certainly involved in the work that's being done and knows what's being taken care of.

Alderman Guinta stated I understand that. I was just curious as to if we have a procedure in place to sign off on legal billing and whether we should consider implementing a more stringent procedure.

City Solicitor Clark replied we'd be happy to look at it. In some projects we do and in some projects we don't. Generally, with Ropes & Gray they bill according to their contract with the Finance Department...it spells out their hourly rates and other matters. Some projects where there is no such contract then my office would review the bills more specifically.

Alderman Guinta asked are the hourly rates broken down into the different levels of attorneys that are working on it.

Mr. Clougherty replied yes.

Alderman Guinta asked would it be appropriate for this Committee to see.

Mr. Clougherty replied that's been requested and we'll provide those invoices.

Alderman Gatsas stated let me identify the problem I have. When you're looking at a transaction that's \$1.5 million for the different parcels that we're talking about (hotel, commercial piece, and condos) at \$1.5 million...we're paying 10% of legal fees. There isn't another developer in the State of New Hampshire that would pay legal fees on a closing sale of a property of 10%. If nobody understands that that's a problem then probably Attorney Rotch would love to start billing at this rate for a \$1.5 million closing. So, I have a real problem that we're looking at a 10% of a transaction.

Mr. Clougherty stated I agree. It's expensive and when you go back and take a look at the work that had to be done to unravel those and the negotiations that were going on with multiple different parties it's expensive and that's just been the nature of this particular deal since the start. I'm not advocating that this is a picture perfect public administration exercise, it certainly hasn't been. Some of the costs we've incurred here have been as a result of the nature of this project.

Alderman Gatsas stated I don't question that, I don't have a problem with that, Kevin, my problem is that nobody's been notified that this bill has been running and that because we separated and did three deeds that we should be incurring the costs of that. I don't believe that it was told to us ever as a Board that those were going to be our incurred costs and I think you gave us a document and we started looking at this and I'd have to look through the paper that showed that the incurred costs were going to be transferring three deeds instead of one and separating out, but we were saving Downtown Vision the money on transfer of deeds. Never that it was going to cost us \$150,000 to do this transaction.

Mr. Clougherty stated I will go back and look at it, Alderman, but it's my recollection and I talked to a number of the Board members.

Alderman Gatsas stated you may have talked to a number but you didn't talk to us all.

Mr. Clougherty reiterated I'll go back and look, Alderman.

Chairman Lopez stated let's get the information and if you want to bring it up to the full Board that's your prerogative.

Alderman Gatsas restated I'm making a motion now that we send it to the full Board and no payment is made until the full Board makes a decision.

Chairman Lopez asked is there a second to the motion.

Alderman Guinta replied I have a question before I second it. Is this something that we could address in Committee before the bill is paid or is your preference that we have the full Board.

Alderman Gatsas replied, Alderman, I have a problem that we as a Board have spent \$156,000 on legal fees and I don't think all 14 members of this Board were aware of that. And, I think that everybody...that should be a discussion that we all have,...understand that that is what the cost is because it's coming out of General Funds and it's taxpayers dollars.

Alderman Guinta duly seconded the motion.

Alderman DeVries stated I think Alderman Smith asked a very pertinent question a few minutes ago...that nothing legally is in place for any parties to be paying this...the choice is can it be paid for by the bonding of the baseball project but it does not pertain to the building of the baseball stadium and with nothing legally in place for another party, I just don't see what our choices are for billing this to someone else. So, though I am in favor of further discussion at this Committee level, I'm not in favor of discussion at the full Board level.

Chairman Lopez stated I probably would like to get the information as we requested from the Finance Officer before we start sending something to the full Board that we haven't even addressed as a Committee is looking into details of each of these and understanding what the whole process is. We have some figures here and descriptions (land sale) but we don't know what land sale and stuff like that. So, we're shooting in the dark and I would ask the Committee to hold it in

Committee until we get the report. As soon as we get the report, if we have to have a special meeting we'll have a special meeting, but I think we have to understand the whole thing here. I understand your point, Alderman, and I'm not too happy about \$156,000 out of our General Fund either but the full Board authorized the Finance Officer and the City Solicitor and the Mayor to sign the contract and move forward and we have obligations to Bond Counsel and everything else. So, let's get the explanation first at to what these numbers really mean so that we understand them and where we stand. As the City Solicitor has indicated there are legal obligations, so if somebody doesn't want to pay them then I'm sure the City goes to court and whatever it takes.

Chairman Lopez called for a vote on the motion. Alderman Gatsas and Guinta voted yea. Alderman DeVries, Smith and Lopez voted nay. The motion failed.

Alderman DeVries moved to withhold the payment until the Committee receives the information that has been requested and if we do need to have a special meeting to discuss it that we do so. Alderman Smith duly seconded the motion.

Aldermen Gatsas voted nay. Aldermen Guinta, DeVries, Smith and Lopez voted yea. The motion carried.

Alderman DeVries asked do we need to take action on the change order or is that already in place.

Mr. Thomas replied the change order procedure is just an outline, I don't think it needs to have a formal action. Basically, it's a notification process for us because the change orders are going to be paid 100% by Drew Weber and the team directly.

There being no further business to come before the Committee, on motion of Alderman Smith, duly seconded by Alderman DeVries, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee